

1 **UNITED STATES DISTRICT COURT**
2 **NORTHERN DISTRICT OF CALIFORNIA**

3 PETER RUDOLPH, Individually and on
4 Behalf of All Others Similarly Situated,

5 Plaintiff,

6 vs.

7 UT STARCOM, HONG LIANG LU,
8 MICHAEL SOPHIE, THOMAS TOY,
9 and FRANCIS BARTON,

10 Defendants.

Civil Action No. 07-CV-4578 (SI)

Date: December 14, 2007

Time: 9:00 a.m.

Courtroom: 10

11 **[PROPOSED] PRETRIAL ORDER NO. 1**

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13 Counsel for movant the Detectives' Endowment Association Annuity Fund
14 (the "Fund") having moved for consolidation, appointment of Lead Plaintiff, and
15 approval of Lead Counsel and Liaison Counsel, and due deliberation having been
16 given by the Court,
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18 IT IS HEREBY ORDERED AND DECREED AS FOLLOWS:
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20 **I. ORDER OF CONSOLIDATION**

21 A. Any and all subsequent cases filed in or transferred to this District
22 which allege one or more common questions of law or fact with the above-
23 captioned action (the "Related Actions") shall be considered consolidated for all
24 purposes, including pretrial proceedings and trial, pursuant to Rule 42(a) of the
25 Federal Rules of Civil Procedure, with Civil Action 07-CV-4578, if, as, and when
26 it is drawn to the Court's attention.
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II. MASTER DOCKET, MASTER FILE AND CAPTION OF CASES

A. The docket in Civil Action No. 07-CV-4578 shall constitute a Master Docket for the consolidated pretrial proceedings in the above-captioned action and any other actions hereafter filed in or transferred to this district and consolidated with Civil Action 07-CV-4578 (hereinafter referred to as the “Consolidated Actions”). Separate dockets also shall be maintained for each of the other individual actions consolidated hereunder (hereinafter the “Individual Actions”) and entries shall be made therein in accordance with the procedure set forth below.

B. The file in Civil Action No. 07-CV-4578 shall constitute a Master File in all of the Consolidated Actions. The Clerk shall establish a separate file for each of the other Consolidated Actions under the docket number already assigned to each, and filings shall be made therein in accordance with the procedure set forth below.

C. Every document filed in any of the Consolidated Actions shall bear the following caption:

-----X	
IN RE UT STARCOM INC.	:
SECURITIES LITIGATION II	:
	: MASTER FILE NO. 07-CV-4578
	: AND RELATED CASES

-----X	
THIS DOCUMENT RELATES TO:	:
	:
-----X	

1 D. When a paper is intended to be applicable to all of the Consolidated
2 Actions, the words "All Actions" shall appear immediately below the words "This
3 document relates to:" in the caption set out above. When a paper is intended to be
4 applicable only to some but not all of the actions, the name of the plaintiff and the
5 docket number of each Individual Action to which the paper is intended to be
6 applicable shall appear immediately below the words "This document relates to:"
7 in the caption described above.
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11 E. When a paper is filed and the caption shows that it is to be applicable
12 to "All Actions," the Clerk shall file such paper in the file for Civil Action No. 07-
13 CV-4578 (Master File) only and note such filing in the docket for such action
14 (Master Docket). No further papers need be filed or docket entries made. When a
15 paper is filed and the caption shows that it is to be applicable to less than all of the
16 Consolidated Actions, the Clerk shall file a copy of such paper in the Master File
17 and a copy in the file of each specific action to which the paper is intended to be
18 applicable, and shall note such filing in the Master Docket and in the docket of
19 each such action. It shall be the responsibility of the party filing such paper to
20 supply the Clerk with sufficient copies of any such paper to facilitate his
21 compliance with the directions of this paragraph.
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27 **III. SUBSEQUENTLY FILED OR TRANSFERRED RELATED ACTIONS**

28 A. When a case related to the subject matter of the complaints referred to

herein, now referred to as *In re UT Starcom Inc. Securities Litigation II*, is hereafter filed in this Court or transferred here from another court and assigned to the Honorable Susan Illston, the Clerk of this court shall:

1. place a copy of this Order in the separate file for such action;
2. e-mail a Notice of Electronic Filing and/or mail a copy of the order of assignment to plaintiffs' Lead Counsel and Liaison Counsel and to counsel for defendants in the consolidated actions;
3. e-mail a Notice of Electronic Filing and/or mail to the attorneys for the plaintiff(s) in the newly filed or transferred case a copy of this Order and to any new defendant(s) in the newly filed or transferred case; and
4. make an appropriate entry in the Master Docket.

B. This Court requests the assistance of counsel in calling to the attention of the Clerk of this Court the filing or transfer of any case which might properly be consolidated as a part of the *In re UT Starcom Inc. Securities Litigation II*.

IV. APPLICATION OF THIS ORDER TO SUBSEQUENTLY FILED CASES

A. This Pretrial Order No. 1 shall apply to each related action which is subsequently filed in this Court or transferred to this Court unless a party objecting to the consolidation of such case or to any other provision of this Order shall, within ten (10) days after the date upon which a copy of this Order is e-mailed

1 and/or mailed by the Clerk, file an application for relief from this Order or any
2 provision herein.

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4 B. All subsequent pretrial orders issued in these proceedings shall be
5 numbered consecutively. Any reference to an order of this Court in any document
6 filed with the Court shall include the proper number of the Order.
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8 **V. ADMISSION OF ATTORNEYS**

9 All attorneys for plaintiffs and defendants who are members in good
10 standing of their respective Bars may appear and participate in the Consolidated
11 Actions *pro hac vice* upon compliance with the rules of this Court.
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14 **VI. RULES OF PROCEDURE**

15 Except as otherwise provided herein or by further order of the Court, the
16 rules of the United States District Court for the Northern District of California shall
17 govern all further proceedings in these actions.
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19 **VII. LEAD PLAINTIFF**

20 Pursuant to Section 21D(a)(B)(V) of the Securities and Exchange Act of
21 1934, the Lead Plaintiff shall be the Detectives' Endowment Association Annuity
22 Fund (the "Fund"), who hereby selects as Lead Counsel and Liaison Counsel the
23 counsel named in Section VIII below.
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26 **VIII. ORGANIZATION OF CLASS ACTION PLAINTIFFS' COUNSEL**

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28 A. The organizational structure of class action plaintiffs' counsel

1 established hereunder shall apply to all class action plaintiffs' counsel in all
2 Consolidated Actions.

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4 B. The law firm of Schoengold Sporn Laitman & Lometti, P.C. shall be
5 Lead Counsel.

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7 C. The law firm of Glancy Binkow & Goldberg LLP shall be Liaison
8 Counsel.

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10 D. Lead Counsel shall be responsible for coordinating and organizing
11 plaintiffs in the conduct of this litigation and, in particular, shall:

- 12 1. coordinate plaintiffs' pretrial activities and plan for trial;
- 13 2. coordinate the briefing and argument of motions;
- 14 3. coordinate the initiation and conduct of discovery proceedings;
- 15 4. act as spokesperson at pretrial conferences;
- 16 5. negotiate with defense counsel with respect to settlement and
17 other matters;
- 18 6. call meetings of plaintiffs' counsel when appropriate;
- 19 7. make all work assignments to plaintiffs' counsel to facilitate the
20 orderly and efficient prosecution of this litigation and to avoid duplicative or
21 unproductive effort;
- 22 8. coordinate and direct the preparation for a trial of this matter,
23 and delegate work responsibilities to selected counsel as may be required;
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1 9. consult with and employ experts;

2 10. maintain lists of all class action plaintiffs who have appeared in
3 this action and their addresses and lists of all class action plaintiffs' counsel and
4 their addresses;
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6 11. coordinate and communicate with defendants' counsel with
7 respect to matters addressed in this paragraph; and
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9 12. perform such other duties and undertake such other
10 responsibilities as they deem necessary or desirable.
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12 E. No pleadings or other papers shall be filed or discovery conducted by
13 class action plaintiffs in the Consolidated Actions except through Lead Counsel
14 and Liaison Counsel. This is intended to prevent duplication of pleadings and
15 discovery. All pleadings or other papers filed with the Court on behalf of class
16 action plaintiffs shall be filed through Lead Counsel and Liaison Counsel.
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18 F. Lead Counsel shall be the primary contact between plaintiffs' counsel
19 and defendants' counsel as well as the spokespersons for plaintiffs' counsel unless
20 Lead Counsel designates otherwise. They shall also be primarily responsible for
21 communicating with the Court to coordinate the conduct of the litigation.
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23 G. All plaintiffs' counsel in the Consolidated Actions shall submit to
24 Lead Counsel a record of time expended and expenses incurred in the manner,
25 form and frequency directed by Lead Counsel.
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1 **IX. COORDINATION AND CONSOLIDATION OF DISCOVERY**

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3 A. Neither plaintiffs nor defendants in any of the Consolidated Actions
4 shall file duplicative or overlapping discovery requests. Both sides shall use their
5 best efforts to file consolidated discovery requests.
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7 **X. SERVICE OF PLEADINGS AND OTHER PAPERS**

8 A. Defendants' counsel shall effect service of papers on plaintiffs'
9 counsel by filing the same on the Electronic Case Filing System ("ECF"). When
10 ECF is not applicable or available, Defendants' counsel shall serve a copy of the
11 same on plaintiffs' Lead Counsel by overnight mail service, telecopy, hand
12 delivery or by first-class mail (with simultaneous telecopy), and upon other
13 plaintiffs' counsel by first-class mail. Lead Counsel and or Liaison Counsel shall
14 effect service of papers on defendants by filing the same on ECF, and, when ECF
15 is not applicable or available, by serving a copy of the same on defendants' counsel
16 by overnight mail service, telecopy, hand delivery or first-class mail (with
17 simultaneous telecopy).
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22 B. If defendants file a single pleading or other paper directed to all
23 plaintiffs in the consolidated cases, the response on behalf of the plaintiffs shall be
24 made in a single pleading or other paper to be served by Lead Counsel and or
25 Liaison Counsel. All plaintiffs in the consolidated action shall be bound by that
26 pleading or paper.
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XI. FURTHER PROCEEDINGS

Unless otherwise agreed to by the parties and the Court or ordered by the Court:

A. Lead plaintiff shall serve and file a Consolidated and Amended Class Action Complaint not later than sixty (60) days following entry of Pretrial Order No. 1. Such complaint will supersede any complaints previously filed in any of the heretofore filed actions and will be deemed the authoritative complaint superseding all complaints filed in any of the actions consolidated hereunder or in any related case.

B. Defendants shall answer, move or otherwise respond to the Consolidated and Amended Class Action Complaint within sixty (60) days of its service, and shall not be required to respond to any complaints previously filed in the actions consolidated hereunder.

C. In the event defendants file a Motion to Dismiss the Consolidated and Amended Class Action Complaint, Lead Plaintiff shall serve and file a Response within sixty (60) days, and defendants may file a Reply within thirty (30) days thereafter.

D. In the event defendants file a Motion to Dismiss the Consolidated and Amended Class Action Complaint, Lead Plaintiff will refrain from and not be required to file and serve a Motion for Class Action Determination until the

1 resolution of said Motion to Dismiss.

2 E. Lead Plaintiff shall file and serve a Motion for Class Action
3 Determination within thirty (30) days following service of defendants' answer.
4 Defendants shall have thirty (30) days to file their memorandum of law and
5 supporting papers in opposition to the motion for class certification. Lead Plaintiff
6 shall then have thirty (30) days after service of the opposing memorandum within
7 which to file a reply memorandum. The class certification motion will be
8 returnable on a date to be set by the Court.
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12 **XII. PROTECTIVE ORDER**

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14 The parties shall submit to the Court on or before thirty (30) days following
15 the entry of an order denying a motion to dismiss or service of an answer, a
16 stipulated form of order providing for the confidential treatment of certain
17 documents and information provided by the parties to one another in this litigation
18 or, should the parties be unable to do so, their respective proposals regarding such
19 confidential treatment.
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22 **XIII. DOCUMENT PRESERVATION**

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24 A. During the pendency of this litigation, or until further order of this
25 Court, the parties shall take reasonable steps to preserve all documents within their
26 possession, custody, or control, including computer-generated and stored
27 information, and materials such as computerized data and electronic mail,
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1 containing information which is relevant to the subject matter of the pending
2 litigation.

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4 **XIV. MISCELLANEOUS**

5 A. Counsel for all parties are directed to cooperate with one another,
6 whenever possible, to promote the expeditious handling of pretrial proceedings in
7 the Consolidated Actions.
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9 B. Any exchange or disclosure of information or documents between or
10 among counsel for class action plaintiffs or among counsel for defendants in
11 connection with the Consolidated Actions shall not be construed as a waiver of any
12 attorney-client, work product, or other privilege.
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15 C. This Order may be amended by the Court on its own motion, and any
16 party may apply at any time to this Court for a modification of or exception to this
17 Order.
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21 Dated: _____, 2007

22 Honorable Susan Illston
23 United States District Judge
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Submitted by:

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